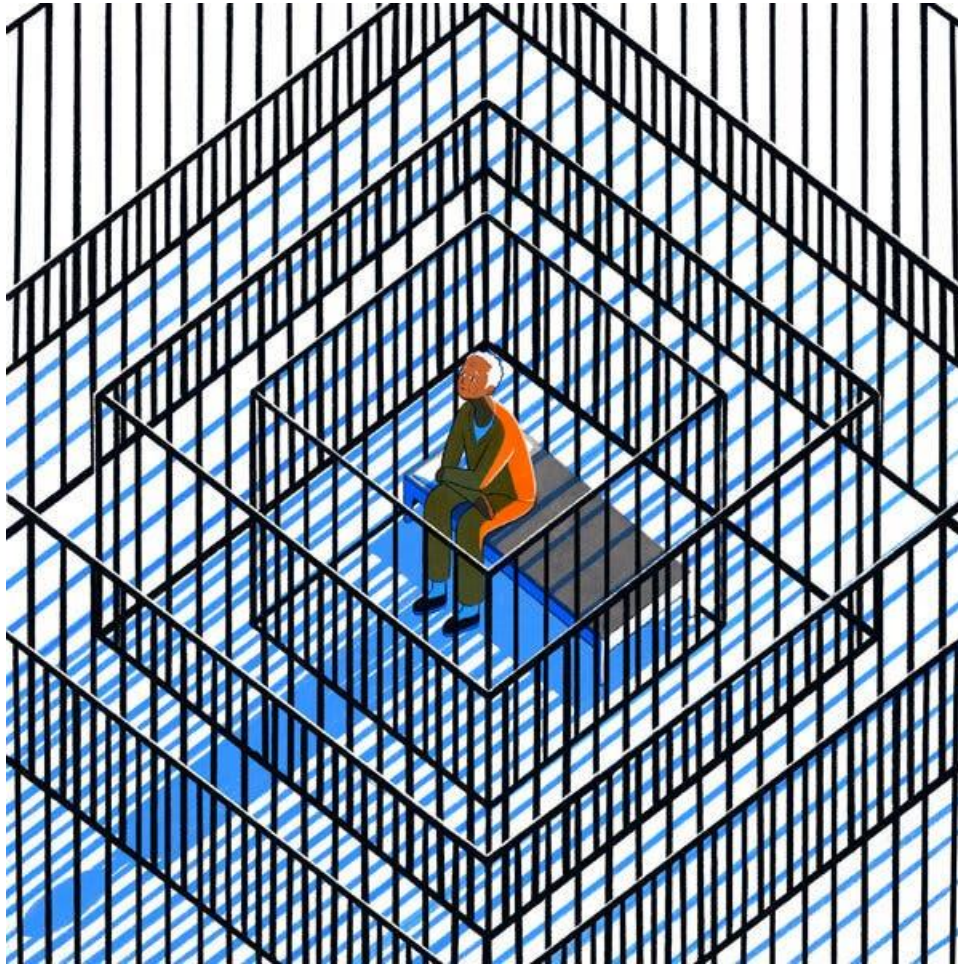


# Let the Punishment Fit the Crime

Oct. 23, 2021



Credit...Eleni Kalorkoti

**By Ben Austen and Khalil Gibran Muhammad**

Mr. Austen is working on a book about crime, punishment and parole. Dr. Muhammad is a professor of history, race and public policy at Harvard.

In 2018, at a maximum-security prison an hour outside of Chicago, a debate team gathered on a stage to argue the merits of reinstating parole in Illinois. Under current law — Illinois abolished discretionary parole in 1978 for all future offenders — none of the 14 members of the Stateville Correctional Center debate team would ever get to appear before a parole board.

Their coach, Katrina Burlet, who also led a team at an evangelical liberal arts college, invited the 177 members of the Illinois General Assembly to attend the debate. Around twenty of the lawmakers showed up in the prison's theater.

Raul Dorado, who was 20 years into [a life sentence](#), told the politicians that he and the other men on the debate team were imprisoned between the ages of 16 and 26. "There is a reason for this," he said. "People simply age out of crime."

The Bureau of Justice Statistics and countless studies show that Mr. Dorado was right about this. Arrest rates for both violent and nonviolent crimes generally peak when people are in their late teens and early 20s, and from there criminal behavior drops steadily. Mr. Dorado said that without parole he and his teammates were likely to die in prison. Half of them had been sentenced to life. Among the others, the shortest sentence was 40 years.

Oscar Parham, whose geniality had earned him the nickname Smiley, said that the most severe punishments should be restricted to the most egregious offenders, to the rare mass murderer or serial killer. Yet in prisons across the country, more than 200,000 people are serving life or virtual life sentences of 50 years or more.

"Was I a monster who threatened the very fabric of society like the natural-life sentence suggests?" he asked. Mr. Parham was a teenager in a gang when a friend killed two people during a drug deal. He was convicted of the double murder under the legal theory of "accountability," which allows prosecutors to charge accomplices or associates as if they committed the actual offense. "Just as prisoners must change and reform, so must the system," Mr. Parham said.

Weeks after the public debate, the prison disbanded the Stateville team. The coach was barred from entering any state prison in Illinois. One explanation came from the head of the Illinois Department of Corrections at the time, who said the coach didn't follow "safety and security practices."

But the team had already captured the attention of several of the visiting legislators. The debaters drafted a bill that would entitle everyone in prison in Illinois to a parole review. With supporters on the outside, five members of the team went on to form a group called [Parole Illinois](#). They raised money and hired an organizer. Now Illinois lawmakers have an opportunity to pass a parole reform bill that is the result of the Stateville debate team's years of work.

[Senate Bill 2333](#) would entitle people imprisoned in the state who serve at least 20 years to a parole review. There are 2,500 people who have already spent two decades in prison in Illinois; many thousands more will eventually surpass that mark. Under the proposed law, they wouldn't be automatically released; a parole board would evaluate them, assessing the risks and benefits of restoring their freedom.

Both of us have [visited](#) and studied prisons in other Western countries, where 20-year sentences are considered extreme and are exceptionally rare. In Germany, according to a 2013 Vera Institute of Justice [report](#), fewer than 100 people have prison terms longer than 15 years; in the Netherlands, all but a tiny percentage are sentenced to four years or less. In U.S. prisons, life sentences are routine.

The pending Illinois law, if passed, might lead other states to follow suit, chipping away at one of the many pillars of mass incarceration. The legislation is a hopeful sign of changing sensibilities about people whose transformed lives have meant very little in the machinery of mass punishment.

Parole has a complicated history in this country, one that helps explain how we got into the crisis of mass incarceration and maybe how we might find a way out. When it began in the United States in the 19th century, parole was envisioned as a means of rehabilitating people in prison by encouraging good behavior with the possibility of early release.

By the 1970s, though, parole boards were under attack. Conservatives pointed to rising crime and civil disorder and denounced parole as overly lenient. They said discretionary release invariably sent dangerous people back onto the streets and encouraged more crime, since soft punishments failed as deterrents.

On the other end of the political spectrum, people behind bars were busy protesting prison conditions. They said parole boards lacked transparency and systematically discriminated against petitioners of color. They and their supporters believed that clearly defined fixed prison terms would be less susceptible to a parole board's bias, racism and indifference, and that as a result these sentences would be shorter. They were wrong.

Sixteen states and the federal government eventually got rid of or severely curtailed their existing parole systems. Other states soon restricted parole eligibility to a small subset of their prison populations. But eliminating and restricting parole turned out to be the first of the sentencing reforms in the country's punitive turn.

The floodgates opened onto mandatory minimums, truth-in-sentencing, three strikes and you're out. More people were sentenced to prison, and the fixed terms grew longer and longer. The number of people in state and federal prisons ballooned to a peak of 1.6 million in 2009 from 200,000 in the 1970s. The numbers have fallen moderately since.

A large body of evidence has documented the destruction caused by long prison terms. Not only are people over 50 the fastest-growing segment in U.S. prisons, but they are also exposed to ever-greater mental and physical health risks with each passing year — a crisis made even more apparent during the Covid-19 pandemic.

One of us was a contributor to a 2014 National Research Council [report](#) on the creation and consequences of mass incarceration. The report recommends a return to a principle of parsimony, the sensible idea that a punishment should be only as severe as is required to prevent future offending. Too much punishment, the report noted, can have the opposite effect, when “justice institutions lose legitimacy.”

Many legal scholars and criminologists now agree that whatever prisons are supposed to accomplish — whether it’s incapacitation, accountability, rehabilitation or deterrence — it can be achieved within two decades. The nonprofit Sentencing Project argues that the United States should follow the lead of other countries and cap prison terms at 20 years, barring exceptional circumstances. The Model Penal Code of the American Law Institute, a century-old organization led by judges, law professors and legal experts, proposes reviewing long sentences for resentencing or release after 15 years.

In Virginia, there’s also a movement to reinstate parole eligibility. A bill in New York State would grant those 55 and older who have served at least 15 years the right to a hearing. Expanding parole consideration in Illinois and elsewhere won’t be enough to roll back the destructive effects of mass incarceration. But it would be an important step in continuing efforts to reduce prison numbers, and it could usher in other necessary changes.

Discretionary parole can’t succeed if brutal prison conditions aren’t improved, if there aren’t educational and rehabilitative opportunities and if those released from prison on parole are set up to fail. In 2010, a fifth of all people entering the country’s state prisons were there not for committing another crime but for technical violations of the conditions of their parole release.

Attending parole hearings, we’ve also seen that parole consideration offers the potential of achieving on a larger scale what the Stateville team pulled off at its debate: forcing a reckoning with the humanity of people in prison and with the injustice of extreme prison terms.

Senate Bill 2333 has a dozen sponsors and was endorsed by local celebrities like Chance the Rapper and Common. But in the first days of the legislative session in Illinois this month, John Connor, the chairman of the Senate Criminal Law Committee, did not bring the bill up for a vote because he didn’t think it could garner enough support. He also feared the possibility of even a single paroled sex offender going on to commit a grievous crime. Whether or not Illinois lawmakers decide to pass these reforms in the remaining days of the legislative session next week, they should keep trying — and not miss the opportunity to bring parole back.

Joseph Dole, the policy director of Parole Illinois, has served 23 years of a life sentence, including a decade in an Illinois supermax prison that was subsequently shuttered after it became known for its abusive forms of isolation and deprivation. In a recent email from Stateville, he explained that the substance of what he and his teammates said at

the debate was less significant than what they demonstrated to the lawmakers in attendance: that they were real people with intelligence, ambitions and valid concerns.

“That,” Mr. Dole wrote, “did more than anything else to dispel the societal narrative that ‘prisoners’ are all ‘evil,’ irredeemable monsters that should be incarcerated unto death.”

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